



Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Washington, D.C. 20554

**CGB**

SEP 15 2003

Control No. 0302539/kah-Pol

The Honorable Michael Bilirakis  
U S. House of Representatives  
2269 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Bilirakis:

Thank you for your letter on behalf of your constituents regarding the Federal Communications Commission's (Commission) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA).

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

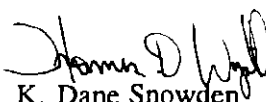
The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night.

As we explained in the Report and Order, the legislative history of the TCPA indicates that one of Congress' primary concerns was to protect the public from bearing the costs of unwanted advertising. Therefore, Congress determined that companies that wish to fax unsolicited advertisements to customers must obtain their express permission to do so before transmitting any faxes to them. The amended rules require all entities that wish to transmit advertisements to a facsimile machine to obtain permission from the recipient in writing.

The Commission's amended facsimile advertising rules were initially scheduled to go into effect on August 25, 2003. However, based on additional comments received since the adoption of the July Report and Order, the Commission, on its own motion, determined to delay the effective date of some of the amended facsimile rules, including the elimination of the established business relationship exemption, until January 1, 2005. The comments filed after the release of the Report and Order indicate that many organizations may need additional time to secure this written permission from individuals and businesses to which they fax advertisements. Enclosed is a copy of the Commission's Order on Reconsideration, released on August 18, 2003.

Please do not hesitate to contact us if you have further questions.

Sincerely,

  
For K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures

MICHAEL BILIRAKIS  
9TH DISTRICT FLORIDA

COMMITTEE ON ENERGY AND COMMERCE  
CHAIRMAN, HEALTH SUBCOMMITTEE  
MEMBER, TELECOMMUNICATIONS AND THE INTERNET  
SUBCOMMITTEE  
MEMBER, OVERSIGHT AND INVESTIGATIONS  
SUBCOMMITTEE

COMMITTEE ON VETERANS' AFFAIRS  
FULL COMMITTEE VICE CHAIRMAN  
MEMBER, OVERSIGHT AND INVESTIGATIONS  
SUBCOMMITTEE

WORLDWIDE WEB PAGE  
[www.house.gov/bilirakis](http://www.house.gov/bilirakis)



Congress of the United States

House of Representatives

Washington, DC 20515-0909 AUG 26 2003

August 13, 2003

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FCC - MAILROOM

PLEASE RESPOND TO

WASHINGTON OFFICE

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WASHINGTON, DC 20515-0909  
(202) 225-5755

DISTRICT OFFICES

☐ 35111 U.S. HIGHWAY 19 NORTH  
PALM HARBOR PROFESSIONAL CENTER  
SUITE 301

PALM HARBOR, FL 34684  
(727) 773-2871

10330 NORTH DALE MABRY  
THE PROMENADE  
SUITE 205  
TAMPA, FL 33618  
(813) 960-8171

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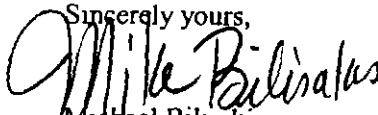
CG B  
Policy-TCPA  
2530

Dear Sir or Madam:

I have been contacted by several of my constituents regarding the Telephone Consumer Protection Act of 1991 (TCPA).

In summary, my constituents contacted me regarding the amendment of the TCPA to require businesses to receive an "expressed written consent" from their members prior to sending a fax advertisement.

I would appreciate your thoughts regarding the attached comments. Thank you for your prompt attention to this matter. If you have any questions regarding this request, please contact Carrie Melvin of my staff at (202) 225-5755.

Sincerely yours,  
  
Michael Bilirakis  
Member of Congress

MB:cm  
Enclosure

27 AUG 2003 RCYD